

tiveness to stimulate the liver, release bile, cleanse impurities from the bowels, and to stimulate the stomach to proper digestion of food.

On May 9, 1938, pleas of guilty having been entered by the defendants, they were sentenced to pay fines in the total amount of \$600.

M. L. WILSON, *Acting Secretary of Agriculture.*

29264. Adulteration and misbranding of Lund's Magic of the Grape. U. S. v. C. Harrison Lund (Lund's Grape Juice Co.). Plea of nolo contendere. Fine of \$10 on each of counts 1, 2, and 3; probation on remaining counts. (F. & D. No. 39778. Sample Nos. 17941-C, 20225-C, 27497-C, 27522-C, 27523-C, 28641-C.)

This product was labeled to indicate that it was composed essentially of grape juice; whereas it consisted of water, dextrose, mineral matter, and only 20 percent to 33 $\frac{1}{3}$ percent of grape juice. Its labeling also bore false and fraudulent curative and therapeutic claims.

On November 10, 1937, the United States attorney for the Western District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the district court an information against C. Harrison Lund, trading as Lund's Grape Juice Co., Erie, Pa., alleging shipment by said defendant in violation of the Food and Drugs Act as amended, within the period from on or about January 21, 1937, to on or about March 31, 1937, from the State of Pennsylvania into the States of New York and Massachusetts of quantities of Lund's Magic of the Grape, which was adulterated and misbranded. The article was labeled in part: "Lund's Grape Juice Co. Erie, Pa."

Analyses showed that it was a diluted grape juice containing dextrose and added mineral salts, certain of the samples examined containing about one-third grape juice and the remaining samples containing about 20 percent of grape juice.

The article was alleged to be adulterated in that water, dextrose, and mineral matter had been mixed and packed with it so as to reduce, lower, and injuriously affect its quality and strength. It was alleged to be adulterated further in that a mixture of water, dextrose, and mineral matter which contained in certain instances approximately 20 percent of grape juice, and in others approximately 33 $\frac{1}{3}$ percent of grape juice, had been substituted in whole or in part for a product composed essentially of grape juice, which it purported to be.

The article was alleged to be misbranded in that the following statements, (circular, all lots) "Lund's Magic of the Grape * * * is pure natural food which does not require digestion. * * * two or three quarts of Lund's per day furnishes energy for all usual occupation. * * * Lund's Grape Juice Co.," (bottle label, all lots) "Magic of the Grape Prepared from the pure juice of U. S. No. 1 ripe Concord Grapes exclusively processed to preserve the grape tartrates * * *. Lund's served in 2 $\frac{1}{2}$ ounce fruit-juice glasses at meals and as a refreshment between meals, is economical fruit. * * * The skins are discarded as you discard them in the usual process of eating grapes, so that the cloudy purple coloring, which consists of compounds of tannic acid that disturb digestion, is eliminated. It offers the convenience of pouring your morning fruit from a bottle and has the same delicate flavor as the juice that flows into your mouth when you break a fresh ripe grape between your lips," (additional circular, certain lots) "Lund's Magic of the Grape is prepared from cold pressed natural color grape juice with grape sugar and no cane sugar. * * * It is so rich in grape sugar, which is the normal blood constituent from which nearly all energy is derived, that no other food is required for ordinary activities during a fast. * * * Lund's Grape Juice Co.," together with the device and design of grapes borne on the bottle label, were false and misleading and were borne on the labeling so as to deceive and mislead the purchaser since they represented that the article was essentially a grape product, namely, a product prepared from pure juice of U. S. No. 1 ripe Concord grapes; whereas it was not as represented but consisted of a mixture of water, dextrose, and mineral matter containing approximately 20 percent in certain lots and approximately 33 $\frac{1}{3}$ percent in other lots of grape juice. It was alleged to be misbranded further in that it was prepared in imitation of an article composed essentially of grape juice and was offered for sale and sold under the distinctive name of another article, grape juice. It was alleged to be misbranded further in that certain statements, designs, and devices in the labeling falsely and fraudulently represented that it was effective to mildly stimulate the internal organs; effective as a treatment and relief for those who are ill; effective to maintain energy during a period of fast; effective for every aggravated ailment and as a first treatment for all chronic ailments;

effective to rid the blood and tissues of poisons and wastes, as a preparation for diagnosis and treatment, and to eradicate the ailment; effective as an aid to recuperation and to control chronic conditions; effective as a relief for stomach, liver, kidney, intestine, lung, or bladder trouble, rheumatism, emaciation, overweight, sleeplessness, cancer and any other sickness; effective to insure more firm and regular pulse, easier heart beat, more normal blood pressure and temperature, easier breathing, less inflammation, more regular and less painful kidney and bowel action, more restful sleep, more normal skin, less congestion of mucous membranes and reduction of pains in muscles and joints; effective as a treatment for congestion, inflammation of acute kinds, night rising, and insomnia; effective to eliminate poisons and wastes when accompanied with nausea and vomiting, headaches, purgings, and heaviness in eyes, mind, and muscles; effective to increase nerve and brain energy and to control health; and effective as a health food.

On May 31, 1938, a plea of nolo contendere having been entered on behalf of the defendant, the court imposed a fine of \$10 on each of counts 1, 2, and 3, with costs, and ordered that the defendant be placed on probation for a period of 2 years on the remaining counts 4 to 18, inclusive.

M. L. WILSON, *Acting Secretary of Agriculture.*

29265. Adulteration and misbranding of ether. U. S. v. 76 Cans of Ether. Default decree of condemnation and destruction. (F. & D. No. 42186. Sample No. 24801-D.)

Samples of this product were found to contain benzaldehyde.

On April 15, 1938, the United States attorney for the Western District of North Carolina, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 76 cans of ether at Charlotte, N. C.; alleging that the article had been shipped in interstate commerce on or about September 9, 1937, from New York, N. Y., by Merck & Co., Inc.; and charging adulteration and misbranding in violation of the Food and Drugs Act.

The article was alleged to be adulterated in that it was sold under a name recognized in the United States Pharmacopoeia, ether, but differed from the standard of strength, quality, and purity as determined by the tests laid down therein, and its own standard of strength, quality, and purity was not stated on the label.

Misbranding was alleged in that the statement on the label, "Ether * * * U. S. P.," was false and misleading when applied to an article that contained benzaldehyde.

On May 25, 1938, no claimant having appeared, judgment of condemnation was entered and the product was ordered destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

29266. Misbranding of milk of magnesia. U. S. v. 240 Bottles of Milk of Magnesia U. S. P. Default decree of condemnation. Product delivered to a charitable institution. (F. & D. No. 42077. Sample No. 24940-D.)

This product was short weight.

On March 31, 1938, the United States attorney for the Southern District of Georgia, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 240 bottles of milk of magnesia at Augusta, Ga.; alleging that the article had been shipped in interstate commerce on or about November 30, 1937, from New York, N. Y., by Certified Pharmacal Co.; and charging misbranding in violation of the Food and Drugs Act.

The article was alleged to be misbranded in that the statement on the label, "6 Fluid Ounces," was false and misleading since the bottles contained a less amount.

On May 11, 1938, no claimant having appeared, judgment of condemnation and destruction was entered. On June 22, 1938, the decree was amended to permit delivery of the product to a charitable institution in lieu of destruction.

M. L. WILSON, *Acting Secretary of Agriculture.*

29267. Misbranding of Pinolator. U. S. v. 83 Packages of Pinolator Treatment. Default decree of condemnation and destruction. (F. & D. No. 41039. Sample No. 47289-C.)

The labeling of this product bore false and fraudulent curative and therapeutic statements and design.

On December 10, 1937, the United States attorney for the Southern District of Ohio, acting upon a report by the Secretary of Agriculture, filed in the